

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Bingshu Yang	Team: Team # 7	CCRB Case #: 200816276	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/15/2008 12:00 PM	Location of Incident: § 87(2)(b)	Precinct: 115	18 Mo. SOL 3/15/2010	EO SOL 3/15/2010	
Date/Time CV Reported Wed, 11/12/2008 12:34 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 11/12/2008 12:34 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Anthony Salato	01458	926403	PBQNT/F

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Pinto	23836	934067	PBQNT/F

Officer(s)	Allegation	Investigator Recommendation
A.SGT Anthony Salato	Abuse: Sgt. Anthony Salato threatened to arrest § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)

Synopsis

§ 87(2)(b) filed the following complaint on November 12, 2008 via NYC.gov regarding an incident that occurred on September 15, 2008. The 311 Customer Service Center forwarded the complaint to the CCRB on November 12, 2008.

On September 15, 2008, at around 12 p.m., § 87(2)(b) returned to his residence at § 87(2)(b) in East Elmhurst driving his son § 87(2)(b)'s vehicle. He was approached by a female city marshal and four tow truck drivers who informed him that the vehicle was being towed by the City Marshal's Office for unpaid parking tickets. § 87(2)(b) refused to exit the car, believing that it was illegal for the city marshal to tow the car if he remained inside. During the dispute, § 87(2)(b) came out of the house and entered the car. After several failed attempts to remove the § 87(2)(b) from the vehicle, the city marshal called 911. Sgt. Anthony Salato and PO Michael Pinto from Queens North Task Force arrived at the scene. Sgt. Salato commanded § 87(2)(b) to exit the car, but § 87(2)(b) refused to comply. Sgt. Salato allegedly threatened to arrest § 87(2)(b) and § 87(2)(b) if they did not exit the car (**Allegation A**). The § 87(2)(b) eventually exited the vehicle, which was subsequently towed.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) is a light-skinned § 87(2)(b) male. He has black hair and brown eyes, is 5'8" tall, and weighs 200lbs. § 87(2)(b) filed the initial complaint through NYC.gov on November 12, 2008 [Encl. 4A-D]. He provided a telephone statement on December 3, 2008 [Encl. 4G]. § 87(2)(b) was interviewed at the CCRB on December 11, 2008 [Encl. 4H-I]. These statements have been condensed into one narrative below, with inconsistencies noted.

On September 15, 2008, at approximately 12 p.m., § 87(2)(b) returned home after grocery shopping with his wife. When he was parking the car in front of his house at § 87(2)(b) in East Elmhurst, § 87(2)(b) was approached by four individuals including a female who identified herself as a city marshal. § 87(2)(b)'s wife left the car and ran into the house. The individuals surrounded § 87(2)(b) and informed him that they were towing the car for unpaid parking tickets. § 87(2)(b) explained that the car belonged to his son and asked if he could pay on the spot for the tickets. The city marshal and the tow truck drivers insisted on towing the car away. § 87(2)(b) told them what they were doing was illegal, and that since he was inside the car, "there was no way they could do this (the towing) to him." Two or three minutes later, § 87(2)(b) came out and got into the passenger's seat. At this time, the marshal told § 87(2)(b) that if he didn't come out of the car, she would call the police. The marshal and others opened the doors of the vehicle and tried to drag § 87(2)(b) and his son out, causing § 87(2)(b)'s shirt to rip. § 87(2)(b) told his son to calm down and not to do anything—§ 87(2)(b) is an American soldier and "could hurt somebody."

About fifteen minutes into the argument, § 87(2)(b) saw a patrol car behind them. Sgt. Salato, identified by § 87(2)(b), approached their car on the driver's side. § 87(2)(b) was originally in the driver's seat but had switched seats with his son inside the car after § 87(2)(b)'s shirt was ripped. The officers told § 87(2)(b) to step out of the car. § 87(2)(b) replied by saying that they would not exit the car, because if they did, the marshal would tow the car. § 87(2)(b) believed that the city marshal could not seize the car with him and his son inside. The sergeant then told § 87(2)(b) that if they did not get out of the car, they would get arrested. In his initial written statement filed via NYC.gov and in his phone statement, § 87(2)(b) stated that both officers told them that if they did not exit the car, they would get arrested. However, during his CCRB interview, he stated that only the sergeant made the threat. § 87(2)(b) asked the officers why they wanted them to get out of the car, since he was trying to settle the tickets. § 87(2)(b) explained that he was willing to pay the tickets, but not the towing charges, which was listed as part of the vehicle seizure charges. The officer insisted that § 87(2)(b) exit the car. § 87(2)(b) and his son walked out of the car. They were immediately asked to stand against a wall and not to move. § 87(2)(b) asked Sgt. Salato questions, but the sergeant ignored him and told him to "shut up." In his initial NYC.gov complaint, § 87(2)(b) stated he was told by the sergeant to "shut his mouth before they arrest him." However, § 87(2)(b) did not reiterate this allegation in his phone

statement or during his CCRB interview. When Sgt. Salato explained to § 87(2)(b) that the tow truck drivers were peace officers, § 87(2)(b) replied by asking, "Since when tow truck drivers are peace officers and have the right to drag people and rip their shirt?" and "Since when a city marshal has the right to remove people from their vehicles and tow their cars?" The sergeant repeated that the city marshal had the right to do so. § 87(2)(b) believed that the entire towing procedure was illegal. After his car was towed, § 87(2)(b) requested an incident report, which Sgt. Salato refused to provide. However, the sergeant did write down his name and command upon his request.

A MOS photo array prepared by the MAS was shown during § 87(2)(b)'s CCRB interview. He identified Sgt. Salato as the subject officer.

Results of Investigation

Letter Issued by the City Marshal's Office [Encl. 4P]

During his interview, § 87(2)(b) provided a letter issued by Edward F. Guida at the City Marshal's Office addressed to § 87(2)(b) in response to a complaint that he had filed regarding the incident on September 15, 2008. The letter identified Marshal I. Rivera as the acting marshal on the date of the incident. The letter states the following:

"You were approached and advised that you had unpaid tickets and you needed to pay on the spot in order for you to take your car then or you can go and pay at the office. The procedure was explained very thoroughly and Marshal Rivera and her staff were very polite and respectful.

You did not want to get out the car nor did you want to cooperate in any matter. The marshal had then no choice but to call the police. When the police arrived they tried to talk to you about what you needed to do and you did not want to cooperate with them either. You still had refused to get out of the car, leaving the cops no choice but to escort you out from your vehicle. Your clothing were not torn you were wearing construction clothes that were already torn, painted and old."

§ 87(2)(b)

On April 6, 2009, the investigator called § 87(2)(b) and scheduled an interview with him for April 10, 2009. On April 10, 2009, § 87(2)(b) called the investigator and rescheduled the interview for April 17, 2009. On April 17, 2009, § 87(2)(b) did not appear for his interview. On April 23, 2009, April 30, 2009, and May 5, 2009, the investigator called § 87(2)(b) and left a message. A letter was also sent to him on April 30, 2009. On May 6, 2009, § 87(2)(b) called the investigator and made a second interview appointment for May 11, 2009. On May 8, 2009, the investigator called § 87(2)(b) and confirmed the appointment. On May 11, 2009, § 87(2)(b) did not appear for his second interview.

Considering the fact that § 87(2)(b) missed two appointments without prior notice and without contacting the investigator afterwards, and the fact that his statement would not change the recommended disposition, no further scheduling was attempted.

Sgt. Anthony Salato

Memo Book [Encl. 5A-B]

Sgt. Salato's memo book on September 15, 2008 noted that at 11:45 a.m., he received a radio call 10-85 that a city marshal needed assistance at § 87(2)(b) for a dispute with unknown weapons. At 12:15 p.m., it noted that [there were] no weapons and 91 (non-crime corrected).

CCRB Statement [Encl. 5C-D]

Sgt. Salato is a § 87(2)(b). On September 15, 2008, Sgt. Anthony Salato worked a 0913 x 1810 tour and was assigned as a patrol supervisor at Queens North Task Force. He worked with PO Pinto. Sgt. Salato was in uniform and assigned to RMP 5728. On March 30, 2009, Sgt. Anthony Salato was interviewed at the CCRB and provided the following statement.

On September 15, 2008 at 11:45 a.m., Sgt. Salato received a 10-85 call over the radio that a city marshal needed assistance at § 87(2)(b) for a dispute. He arrived at the location and stopped his car a house or two down the street. Sgt. Salato observed three or four city marshals, two of whom were male and one of whom was female, and a tow truck backed up into a car. The city marshals were trying to hook up the vehicle in question. Sgt. Salato exited his patrol car and saw § 87(2)(b) (identified by the investigation) and his son standing on the sidewalk, the former yelling obscenities at the city marshals, saying things such as "this is fucking bullshit."

Sgt. Salato and PO Pinto approached the location. Sgt. Salato asked § 87(2)(b) and his son to stand against the wall in order to separate the two parties while PO Pinto spoke to the city marshals. § 87(2)(b) who appeared to be very angry, stated that it was his son's vehicle, that he was angry that the car was being towed, and that the city marshals did not have the right to tow his car. § 87(2)(b)'s son also appeared to be angry.

The city marshals showed Sgt. Salato their shields and supplied Sgt. Salato with documentation that authorized the towing. Sgt. Salato spoke with § 87(2)(b) and explained to him that the city marshal had the proper documents with regard to the towing. § 87(2)(b) asked Sgt. Salato what would happen if he should get in the car and drive off; Sgt. Salato replied that he would be subject to arrest, and that it was not worth it. Eventually § 87(2)(b) understood that the city marshals were allowed to take his car. Sgt. Salato stayed at the scene until the city marshal towed the car away. He gave § 87(2)(b) his name and command and left the scene at 12:15 p.m.

Sgt. Salato never saw § 87(2)(b) or his son inside their vehicle. He never stated to them that they would get arrested if they did not exit the car.

PO Michael Pinto

Memo Book [Encl. 6A-B]

PO Pinto's memo book on September 15, 2008 noted that at 11:45 a.m., he received a radio call 10-85 that a city marshal needed assistance at § 87(2)(b) Street (sic). At 11:50 a.m., it noted that both parties were separated, [the dispute was] all verbal, and 91 (non-crime corrected).

CCRB Statement [Encl. 6C-D]

PO Pinto is a § 87(2)(b). On September 15, 2008, PO Pinto worked a 0600 x 1800 tour and was assigned to the 115th Precinct for borough condition. He was in uniform and assigned to a marked van with Sgt. Anthony Salato. On April 16, 2009, PO Pinto was interviewed at the CCRB and provided the following statement.

On September 15, 2008 at 11:45 a.m., PO Pinto and Sgt. Salato received a radio call that city marshals needed assistance at § 87(2)(b) (sic). They immediately arrived at the address and PO Pinto saw two parties yelling at each other in the middle of the street by a vehicle that was being towed. As soon as they saw the officers, the city marshals who were in plainclothes had their shields out to identify themselves. The officers separated the two parties: PO Pinto took the marshals across the street whereas Sgt. Salato talked to § 87(2)(b) and his son. PO Pinto did not hear any of the conversation between Sgt. Salato and the § 87(2)(b) and did not hear Sgt. Salato mention arresting anyone at any time. PO Pinto could not recall whether § 87(2)(b) and his son were ever inside the car that was being towed.

Police Documents

SPRINT Print-out [Encl. 7E-F]

The SPRINT print-out indicates that at 11:37 a.m. on the date of the incident, a female caller named § 87(2)(b) reported that at § 87(2)(b) a male had jumped in the vehicle and was getting violent, and that at 11:39 a.m., the situation was not under control and ETA of RMP was needed. At 11:40, NFU Auth Task Force sergeant arrived at the scene. At 12:40, non-crime was corrected.

Civilian Criminal Conviction History [Encl. 8A-D]

§ 87(2)(b) and § 87(2)(b) do not have criminal conviction history.

Civilian CCRB History [Encl. 3A]

This is § 87(2)(b)'s first complaint with the CCRB.

Subject Officer's CCRB History [Encl. 2A-C]

Sgt. Anthony Salato has had three substantiated allegations with the CCRB during his 15-year tenure at the NYPD. In CCRB case 200406994, the NYPD issued instructions for a substantiated discourtesy allegation. In CCRB case 200503618, the CCRB substantiated an allegation of refusal to provide name and shield number and an allegation of offensive language based upon race. The refusal to provide name and shield number charge was dismissed. Sgt. Salato pleaded guilty to the offensive language charge and received the penalty of a loss of 17 vacation days.

Conclusions and Recommendations

Undisputed Facts

It is undisputed that Sgt. Salato and PO Pinto responded to a radio call to assist a city marshal in her dispute with § 87(2)(b) and § 87(2)(b) over the towing of the latter's car for unpaid parking tickets. It is undisputed that the § 87(2)(b) refused to exit the car after the city marshal's several attempts to remove them from the car.

§ 87(2)(b), § 87(2)(g)

Subject Officer Identification

§ 87(2)(b) provided the name "Sgt. Salano" from Queens North Task Force in his initial NYC.gov complaint. A CTS search located a Sgt. Anthony Salato from Queens North Task Force. During his CCRB interview, § 87(2)(b) provided the paper on which the sergeant at the scene had written down his name and command, which noted as the following: Sgt. Salato—NYPD Qns. North Task Force 9/15/08. § 87(2)(b) also identified Sgt. Salato in an MOS photo array. The subject officer's identification was further confirmed by Sgt. Salato's memo book and CCRB statement. Therefore, the subject officer is positively identified and allegation A is pleaded against Sgt. Anthony Salato from command 170.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation A: Sergeant Anthony Salato threatened to arrest § 87(2)(b) and § 87(2)(b)

[REDACTED] alleged that Sgt. Anthony Salato threatened to arrest him and his son if they did not exit the vehicle that was being towed by the City Marshal's Office. Penal Law 195.05 for obstructing governmental administration in the second degree states that "a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act..."[Encl. 1A]. § 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: